

FINANCIAL INDUSTRY REGULATORY AUTHORITY
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DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

V.

SCOTT THOMAS VALENTE
(CRD No. 1177354),

RESPONDENT.

DISCIPLINARY PROCEEDING
No. 2006007370402

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. At various times from January 2003 through March 2005, Scott Thomas Valente engaged in excessive and unsuitable trading in the accounts of eight customers, VS, ES, AB, GP/JP (joint account), JAD, JD/BD (joint account), resulting in significant commission income for Valente and losses for his customers. In addition, Valente exercised discretion in those accounts without written authorization from the customers and acceptance by his employer member firm of the accounts as discretionary. This conduct violated NASD Conduct Rules 2310, 2510 and 2110 and IM-2310-2.

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RESPONDENT AND JURISDICTION

2. On November 2, 1998, Valente first became registered with FINRA as an Investment Company and Variable Products Representative through a member firm. On May 20, 1989, Valente also became registered as a General Securities Representative. Since July 1996, Valente has been registered in those same capacities with member firm Purshe Kaplan Sterling Investments, Inc.

FIRST CAUSE OF ACTION

Excessive Trading/Unsuitable Transactions (Customer VS) (NASD Conduct Rules 2310 and 2110 and IM-2310-2)

3. The Department realleges and incorporates by reference paragraphs 1-2 above.
4. In 2002, customer VS opened two brokerage accounts with Valente at his employer member firm: a regular account (Account 1) and an IRA account (Account 2). VS was 44 years old and owned a jewelry store at the time he opened these accounts. VS gave Valente approximately \$300,000 to invest, which represented almost all of his liquid assets. VS was a conservative investor with limited investment experience.
5. On the new account documents, Valente listed VS's investment objectives as "income" for Account 1 and "capital appreciation" for Account 2. Valente further identified VS's risk tolerance as "moderate" for Account 1 and "Moderate and Aggressive" for Account 2. On the account opening documents Valente listed VS's annual income as "over \$100,000" with an estimated net worth of \$100,001-\$500,000.

6. Valente exercised discretion in both of VS's accounts and rarely consulted with him prior to trades. Thus, he controlled the trading activity in the accounts.

Account 1

7. From July 2003 through September 2004, Valente recommended to VS and effected or caused to be effected in this account approximately 161 transactions in stocks and other securities as more fully detailed in Exhibit A attached to this Complaint and incorporated herein by reference. The average monthly equity in VS's account during this time period was approximately \$129,000.
8. Valente recommended and effected the transactions in VS's account, as detailed on Exhibit A, without having reasonable grounds for believing that such transactions were suitable for VS in view of the size and frequency of the transactions, the transaction costs incurred, and in light of the customer's financial situation, investment objectives and needs.
9. The transactions referred to in paragraph 7 were excessive in number, resulting in an annualized turnover ratio of approximately 11 and an annualized cost-to-equity ratio (converted to a percentage) of approximately 25%. Accordingly, during this time period, VS's account would have had to earn at least an annual 25% return just to break even.
10. Valente engaged in short-term, in-and-out trading in this account. He sold approximately 78% of the securities in the account within thirty (30) days of purchase, and approximately 95% of the securities in the account within sixty (60) days of purchase.

11. During this period, VS lost approximately \$64,000 through the excessive trading in his account, while Valente received approximately \$14,000 in net commissions.

Account 2

12. Valente engaged in a similar pattern of trading in Account 2. From January 2003 through June 2004, Valente recommended to VS and effected or caused to be effected in the account approximately 162 transactions in stocks in other securities in his account as more fully detailed in Exhibit A attached to this Complaint and incorporated herein by reference. The average monthly equity in the account during this time period was approximately \$135,000.
13. Valente recommended and effected the transactions in Account 2, as detailed on Exhibit A, without having reasonable grounds for believing that such transactions were suitable for VS in view of the size and frequency of the transactions, the transaction costs incurred, and in light of the customer's financial situation, investment objectives and needs.
14. The transactions referred to in paragraph 12 were excessive in number, resulting in an annualized turnover ratio of approximately 4 and an annualized cost-to-equity ratio (converted to a percentage) of approximately 14%. Accordingly, during this time period, VS's account would have had to earn an annual return of at least 14% just to break even.

15. Valente engaged in short-term, in-and-out trading in this account. He sold approximately 71% of the securities in the account within thirty (30) days of purchase, and approximately 81% of the securities in the account within sixty (60) days of purchase.
16. During this period, VS gained approximately \$2,000 through the excessive trading in this account, while Valente received approximately \$6,000 in net commissions.
17. By recommending excessive and unsuitable transactions in both of VS's accounts, Valente violated NASD Conduct Rules 2310 and 2110 and IM-2310-2.

SECOND CAUSE OF ACTION

Discretionary Trading Without Written Authority (Customer VS) (NASD Conduct Rules 2510 and 2110)

18. The Department realleges and incorporates by reference paragraphs 1-17 above.
19. From January 2003 through September 2004, Valente exercised discretion in effecting many of the securities transactions in both of VS's accounts.
20. Valente failed to obtain prior written authorization from customer VS to exercise discretion in his accounts. He also failed to obtain written acceptance of the account as discretionary by his employer member firm.
21. By exercising discretion without written authority in these accounts, Valente violated NASD Conduct Rules 2510 and 2110.

THIRD CAUSE OF ACTION
Excessive Trading/Unsuitable Transactions (Customer ES)
(NASD Conduct Rules 2310 and 2110 and IM-2310-2)

22. The Department realleges and incorporates by reference paragraphs 1-21 above.
23. In 2001, customer ES (and his wife) opened four accounts with Valente at his employer member firm. ES invested a total of approximately \$530,000 with Valente, representing approximately all of the retirement funds of ES and his wife.
24. ES is 65 years old. He retired shortly after opening his accounts with Valente. ES was a conservative investor with minimal prior investment experience. Due to ES's age and retirement financial needs, he did not want to incur significant risks in his account.
25. On the new account documents, Valente listed ES's investment objectives as "long term growth" and "income" with a "moderate" risk tolerance. He also identified ES's investment knowledge as "limited" and listed his net worth as "\$100,001-\$500,000" with an annual income of "\$50,000-\$100,000."
26. Valente exercised discretion in ES's IRA account (account number ending in [REDACTED]) and rarely consulted with him prior to trades. Thus, he controlled the trading activity in the account.
27. From June 2003 through January 2005, Valente recommended to ES and effected or caused to be effected in that IRA account approximately 305 transactions in stocks in other securities as more fully detailed in Exhibit B attached to this Complaint and incorporated herein by reference. The average monthly equity in ES's account during this time period was approximately \$160,000.

28. Valente recommended and effected the transactions in ES's account, as detailed on Exhibit B, without having reasonable grounds for believing that such transactions were suitable for ES in view of the size and frequency of the transactions, the transaction costs incurred, and in light of the customer's financial situation, investment objectives and needs.
29. The transactions referred to in paragraph 27 were excessive in number, resulting in an annualized turnover ratio of approximately 12 and an annualized cost-to-equity ratio (converted to a percentage) of approximately 27%. Accordingly, during this time period, ES's account would have had to earn at least an annual 27% return just to break even.
30. Valente engaged in short-term, in-and-out trading in this account. With the exception of ten stocks, he sold all of the positions in the account within thirty (30) days of purchase.
31. During this period, ES lost approximately \$87,000 through the excessive trading in his account, while Valente received approximately \$25,000 in net commissions.
32. By recommending excessive and unsuitable transactions in this account, Valente violated NASD Conduct Rules 2310 and 2110 and IM-2310-2.

FOURTH CAUSE OF ACTION

Discretionary Trading Without Written Authority (Customer ES) (NASD Conduct Rules 2510 and 2110)

33. The Department realleges and incorporates by reference paragraphs 1-32 above.
34. From June 2003 through January 2005, Valente exercised discretion in effecting many of the securities transactions in ES's IRA account.
35. Valente failed to obtain prior written authorization from customer ES to exercise discretion in his IRA account. He also failed to obtain written acceptance of the account as discretionary by his employer member firm.
36. By exercising discretion without written authority in this account, Valente violated NASD Conduct Rules 2510 and 2110.

FIFTH CAUSE OF ACTION

Excessive Trading/Unsuitable Transactions (Customer AB) (NASD Conduct Rules 2310 and 2110 and IM-2310-2)

37. The Department realleges and incorporates by reference paragraphs 1-36 above.
38. In 2000, customer AB (and her husband) opened three accounts with Valente at his employer member firm.
39. AB is 61 years old and employed by a utility company. On AB's new account documents, Valente listed her annual income as "over \$100,000" with a net worth of "100,001-500,000." Valente also identified AB's investment objectives as "capital appreciation" with a "moderate/aggressive" risk tolerance.
40. ES was a conservative investor with limited prior investment experience. Due to AB's age and financial needs, she did not want to incur significant risks in her account.

41. Valente exercised discretion in AB's IRA account (account number ending with [REDACTED] and rarely consulted with her prior to trades. Thus, he controlled the trading activity in the account.
42. From January 2004 through December 2004, Valente recommended to AB and effected or caused to be effected in that IRA account approximately 199 transactions in stocks in other securities as more fully detailed in Exhibit C attached to this Complaint and incorporated herein by reference. The average monthly equity in AB's account during this time period was approximately \$802,000.
43. Valente recommended and effected the transactions in AB's account, as detailed on Exhibit C, without having reasonable grounds for believing that such transactions were suitable for AB in view of the size and frequency of the transactions, the transaction costs incurred, and in light of the customer's financial situation, investment objectives and needs.
44. The transactions referred to in paragraph 42 above were excessive in number, resulting in an annualized turnover ratio of approximately 4 and an annualized cost-to-equity ratio (converted to a percentage) of approximately 10. Accordingly, during this time period, AB's account would have had to earn at least an annual 10% return just to break even.
45. Valente engaged in short-term, in-and-out trading in this account. He sold 78% of the securities in the account within 30 days of purchase and 92% within 60 days of purchase.

46. During this period, AB lost approximately \$73,000 through the excessive trading in her account, while Valente received approximately \$28,000 in net commissions.
47. By recommending excessive and unsuitable transactions in this account, Valente violated NASD Conduct Rules 2310 and 2110 and IM-2310-2.

SIXTH CAUSE OF ACTION

Discretionary Trading Without Written Authority (Customer AB) (NASD Conduct Rules 2510 and 2110)

48. The Department realleges and incorporates by reference paragraphs 1-47 above.
49. From January 2004 through March 2005, Valente exercised discretion in effecting many of the securities transactions in AB's IRA account.
50. Valente failed to obtain prior written authorization from customer AB to exercise discretion in her IRA account. He also failed to obtain written acceptance of the account as discretionary by his employer member firm.
51. By exercising discretion without written authority in this account, Valente violated NASD Conduct Rules 2510 and 2110.

SEVENTH CAUSE OF ACTION

Excessive Trading/Unsuitable Transactions (GP/JP Joint Account) (NASD Conduct Rules 2310 and 2110 and IM-2310-2)

52. The Department realleges and incorporates by reference paragraphs 1-51 above.
53. In 2001, customer GP and his wife, JP, opened several accounts with Valente at his employer member firm. GP/JP invested a total of approximately \$600,000 with Valente, representing approximately all of their retirement funds.

54. GP is a 65-year-old electrician who retired in 2004. JP is a homemaker. GP/JP were conservative investors with limited prior investment experience. Due to their ages and retirement financial needs, they did not want to incur significant risks in their account.
55. On the new account documents, Valente listed GP/JP's investment objectives as "preservation of capital" and "income" with a "moderate" risk tolerance. He also identified their annual income as "\$50,001-\$100,000" with a net worth between "\$100,000-\$500, 000," and characterized their investment knowledge as "limited."
56. Valente exercised discretion in one of their joint accounts (account number ending in [REDACTED] and rarely consulted with GP/JP prior to trades. Thus, he controlled the trading activity in the account.
57. From January 2003 through April 2004, Valente recommended to GP/JP and effected or caused to be effected in that joint account approximately 175 transactions in stocks and other securities as more fully detailed in Exhibit D attached to this Complaint and incorporated herein by reference. The average monthly equity in the joint account during this time period was approximately \$60,000.
58. There were four instances in 2004 where Valente sold Class B mutual fund shares in the account resulting in contingent-deferred sales charges of \$2,800. In each instance, Valente used the proceeds of sale to buy another mutual fund.

59. Valente recommended and effected the transactions in the joint account, as detailed on Exhibit D, without having reasonable grounds for believing that such transactions were suitable for GP/JP in view of the size and frequency of the transactions, the transaction costs incurred, and in light of the customer's financial situation, investment objectives and needs.
60. The transactions referred to in paragraph 57 above were excessive in number, resulting in an annualized turnover ratio of approximately 4 and an annualized cost-to-equity ratio (converted to a percentage) of approximately 13%. Accordingly, during this time period, the joint account would have had to earn at least an annual 13% return just to break even.
61. Valente engaged in short-term, in-and-out trading in this account. He sold all of the securities positions in the account within thirty (30) days of purchase.
62. During this period, the GP/JP joint account lost approximately \$6,000 through the excessive trading in his account, while Valente received approximately \$3,200 in net commissions.
63. By recommending excessive and unsuitable transactions in this account, Valente violated NASD Conduct Rules 2310 and 2110 and IM-2310-2.

EIGHTH CAUSE OF ACTION

Discretionary Trading Without Written Authority (Customer GP/JP Joint Account) (NASD Conduct Rules 2510 and 2110)

64. The Department realleges and incorporates by reference paragraphs 1-63 above.
65. From January 2003 through April 2004, Valente exercised discretion in effecting many of the securities transactions in the GP/JP joint account (account number ending in [REDACTED]).
66. Valente failed to obtain prior written authorization from customers GP or JP to use discretion in their account. He also failed to obtain written acceptance of the account as discretionary by his employer member firm.
67. By exercising discretion without written authority in this account, Valente violated NASD Conduct Rules 2510 and 2110.

NINTH CAUSE OF ACTION

Excessive Trading/Unsuitable Transactions (Customer JAD) (NASD Conduct Rules 2310 and 2110 and IM-2310-2)

68. The Department realleges and incorporates by reference paragraphs 1-67 above.
69. Customer JAD opened two brokerage accounts with Valente at his employer member firm in April 2003. JAD invested approximately \$200,000 with Valente.
70. JAD is 53 years old and manages a country club. She is a conservative investor with limited prior investment experience.
71. On the new account documents, Valente identified JAD's investment objectives as "capital appreciation" with a "moderate" risk tolerance. He also listed JAD's annual income as "over \$100,000" with a net worth "over \$100,000," and characterized her investment knowledge as "limited."

72. Valente exercised discretion in one of JAD's accounts (account number ending in [REDACTED] and rarely consulted with her prior to trades. Thus, he controlled the trading activity in the account.
73. From July 2003 through July 2004, Valente recommended to JAD and effected or caused to be effected in that account approximately 170 transactions in stocks in other securities as more fully detailed in Exhibit E attached to this Complaint and incorporated herein by reference. The average monthly equity in JAD's account during this time period was approximately \$187,000.
74. Valente recommended and effected the transactions in JAD's account, as detailed on Exhibit E, without having reasonable grounds for believing that such transactions were suitable for JAD in view of the size and frequency of the transactions, the transaction costs incurred, and in light of the customer's financial situation, investment objectives and needs. The transactions were excessive in number.
75. The transactions referred to in paragraph 73 were excessive in number, resulting in an annualized turnover ratio of approximately 16 and an annualized cost-to-equity ratio (converted to a percentage) of approximately 40%. Accordingly, during this time period, JAD's account would have had to earn at least an annual 40% return just to break even.
76. Valente engaged in short-term, in-and-out trading in this account. He sold approximately 90% of the stocks in the account within thirty (30) days of purchase. Furthermore, he sold approximately 35% of the stocks within seven (7) days of purchase.

77. During this period, JAD lost approximately \$77,000 through the excessive trading in his account, while Valente received approximately \$29,000 in net commissions.
78. By recommending excessive and unsuitable transactions in this account, Valente violated NASD Conduct Rules 2310 and 2110 and IM-2310-2.

TENTH CAUSE OF ACTION

Discretionary Trading Without Written Authority (Customer JAD) (NASD Conduct Rules 2510 and 2110)

79. The Department realleges and incorporates by reference paragraphs 1-78 above.
80. From July 2003 through July 2004, Valente exercised discretion in effecting many of the securities transactions in JAD's account (account number ending in ■■■■).
81. Valente failed to obtain prior written authorization from customer JAD to exercise discretion in her account. He also failed to obtain written acceptance of the account as discretionary by his employer member firm.
82. By exercising discretion without written authority in this account, Valente violated NASD Conduct Rules 2510 and 2110.

ELEVENTH CAUSE OF ACTION

Excessive Trading/Unsuitable Transactions (JD/BD Joint Account) (NASD Conduct Rules 2310 and 2110 and IM-2310-2)

83. The Department realleges and incorporates by reference paragraphs 1-82 above.
84. In 1999, customer JD and his wife, BD, opened five accounts with Valente at his employer member firm.

85. JD and BD are in their fifties and own a nursery. Both were conservative investors with limited prior investment experience. They did not want to incur significant risks in their account and had no prior experience investing in stocks.
86. On the new account documents, Valente listed JD/BD's investment objectives as "capital appreciation" with a "moderate" risk tolerance. He also listed their annual income as "\$50,001- \$100,000" with a net worth between "\$100,001"- "\$500, 000," and characterized their investment knowledge as "limited."
87. Valente exercised discretion in one of their joint accounts (account number ending in [REDACTED] which was originally opened in 1999 under a different account number) and rarely consulted with JD/BD prior to trades. Thus, he controlled the trading activity in the account.
88. From July 2003 through April 2004, Valente recommended to JD/BD and effected or caused to be effected in that joint account approximately 188 transactions in stocks and other securities as more fully detailed in Exhibit F attached to this Complaint and incorporated herein by reference. The average monthly equity in the joint account during this time period was approximately \$69,000.
89. Valente recommended and effected the transactions in the joint account, as detailed on Exhibit F, without having reasonable grounds for believing that such transactions were suitable for JD/BD in view of the size and frequency of the transactions, the transaction costs incurred, and in light of the customer's financial situation, investment objectives and needs.

90. The transactions referred to in paragraph 88 were excessive in number, resulting in an annualized turnover ratio of approximately 15 and an annualized cost-to-equity ratio (converted to a percentage) of approximately 40%. Accordingly, during this time period, the joint account would have had to earn at least an annual 40% return just to break even.
91. Valente engaged in short-term, in-and-out trading in this account. He sold all of the securities positions in the account within thirty (30) days of purchase. Furthermore, he sold approximately 50% of the stocks within a week of purchase.
92. During this period, the JD/BD joint account lost approximately \$32,000 through the excessive trading in his account, while Valente received approximately \$8,000 in net commissions.
93. By recommending excessive and unsuitable transactions in this account, Valente violated NASD Conduct Rules 2310 and 2110 and IM-2310-2.

TWELFTH CAUSE OF ACTION

Discretionary Trading Without Written Authority (Customer JD/BD Joint Account) (NASD Conduct Rules 2510 and 2110)

94. The Department realleges and incorporates by reference paragraphs 1-93 above.
95. From July 2003 through April 2004, Valente exercised discretion in effecting many of the securities transactions in the JD/BD joint account (account number ending in [REDACTED]).
96. Valente failed to obtain prior written authorization from JD or BD to exercise discretion in their account. He also failed to obtain written acceptance of the account as discretionary by his employer member firm..

97. By exercising discretion without written authority in this account, Valente violated NASD Conduct Rules 2510 and 2110.

THIRTEENTH CAUSE OF ACTION

Falsified Documents
(NASD Conduct Rule 2110)

98. The Department realleges and incorporates by reference paragraphs 1-97 above.
99. On or about April 25, 2006, Valente met with customer ES and his wife to review the performance of their four accounts. During this meeting, Valente provided ES and his wife a handwritten note that he prepared on his employer member firm's letterhead representing that the total value of their accounts/investments was \$501,000. Further, one of the investments that Valente listed on the handwritten note was a purported "Eaton Vance IRA" with a value of \$179,000.
100. This information was false. The total value of the accounts/investments that ES and his wife held at the firm in April 2006 was approximately \$330,000. Further, in April 2006, ES and his wife did not have an "Eaton Vance IRA" investment worth \$179,000. At that time, ES and his wife owned two Eaton Vance mutual funds, one of which was in an IRA account, with a combined value of approximately \$25,000.
101. By providing false account information to ES and his wife, Valente violated NASD Conduct Rule 2110.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed, including that the Respondent be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest; and
- B. order that the Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Dated: 2/12/09



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